

REMARKS

Claims 1-39 are pending in the present application. Claims 1, 3, 5, 8, 9, 11, 12, 15, 16, 19, 21, 22, 24, 26, 29, 32, 36, 37, and 38 were amended. Claim 39 was added. Reconsideration of the claims is respectfully requested. Applicants have made amendments to the claims to provide for proper antecedent basis for the different terms. Additionally, amendments have been made to further clarify the claimed invention.

Applicants thank the examiner for the interview on Wednesday, March 03, 2004. The examiner agreed that the preventing step was not shown in Bryant and stated that she would send a new Office Action with new prior art when applicants submit this response.

I. 35 U.S.C. § 102, Anticipation

The examiner has rejected claims 1-38 under 35 U.S.C. § 102 as being anticipated by United States Patent Number 6286046 B1 in view of Bryant ("Bryant"). This rejection is respectfully traversed. In rejecting the claims, the examiner stated the following:

With regards to Claim 1, Bryant meets the limitations:

"requesting content from a source using an identifier" on column 3, lines 34-35; and
"sending a set of identifiers used to reach the content to a validation service" on column 3, lines 62-66; and
"responsive to a response from the validation service indicating monitoring of access to content, selectively preventing receipt of content from the source" on column 4, lines 13-24. The referenced art is set up very similarly to the claimed invention. It possesses a web browser, a web server and a monitor that represents the validation service that uses a list of urls obtained from the web server to serve the purpose of overall performance evaluation (column 4, lines 20-24). The examiner asserts that the usage of the set up as a data processing system for detecting monitoring of access to content and selectively preventing receipt of content from the source is not expressly mentioned in the referenced art. However the latter purpose is a highly possible function of the referenced art because the setup is

very similar to the claimed invention and using the referenced art to achieve the purpose of the claimed invention is very likely and possible. Hence the examiner asserts that the referenced prior art meets this limitation.

Office Action, dated January 2, 2004, pages 2-3.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Anticipation focuses on whether a claim reads on the product or process a prior art reference discloses, not on what the reference broadly teaches. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983).

In this particular case, each and every feature of the presently claimed invention is not taught in *Bryant* as recited in the claims. In particular, claim 1 reads as follows:

1. A method in a data processing system for detecting monitoring of access to content, the method comprising the data processing system implemented steps of:
 - requesting the content from a source;
 - receiving the content from the source, wherein at least one returned identifier is returned from the source in which the at least one returned identifier represents a location of the content;
 - sending a set of identifiers used to reach the content to a validation service, wherein the set of identifiers includes each identifier used to request the content and each returned identifier representing the location of the content; and
 - responsive to a response from the validation service indicating the monitoring of user requests to access to content is occurring, selectively preventing receipt of the content from the source.

All of these features in amended claim 1 are not shown in *Bryant*. For example, the examiner points to the following portion of *Bryant* for the step of sending a set of identifiers used to reach content to a validation service:

The primary function of the monitor 40 is to record a set of URLs (sometimes referred to as a "request list") that issue from the Web browser during an interactive sample session between the user

of the client machine and the server application. In a typical interactive session, there may be 15-20 URLs (although this number is merely representative)....

Bryant, column 3, line 62-66. This portion of *Bryant* teaches using a monitor to record URLs issued by a Web browser. However, no teaching is present for sending a set of identifiers used to reach content to a validation service. Recording URLs by monitor 40 is not the same as validating those URLs. Nowhere is a validation service mentioned in *Bryant* in the section cited by the examiner for this sending step. Monitor 40 does not provide an indication that monitoring is occurring as recited in claim 1. Such an indication is returned from the validation service if monitoring of access to content occurs. Consequently, the sending step is not taught by *Bryant*.

Further, the preventing step of claim 1 also is not taught in *Bryant* as believed by the examiner. Specifically, *Bryant* does not teach selectively preventing receipt of content from the source in response to a response from the validation service indicating monitoring of access to content. The examiner points to the following portion of *Bryant* for this teaching:

According to the invention, the URL request list trace or session "workload" for the particular interactive session is recorded in a file 44. The information in the file 44 may then be used to benchmark the e-business server application by supplying the information as an input to a set of HTTP submitter routines 46a-n. Each HTTP submitter routine 46 simulates a particular user of a client machine connected to the server application. In a separate process, each of the set of HTTP submitter routines then "replays" the interactive session recorded by the monitor so that the overall performance of the server application against multiple users may be evaluated.

Bryant, column 4, lines 13-24. As can be seen, this portion of *Bryant* only teaches obtaining a URL request list trace or that a session workload is recorded. This information is used to perform a benchmark or a test of an application. The session is replayed to evaluate the performance of the application. This feature does not teach preventing receipt of content from a source.

The examiner states that this feature is not expressly mentioned but indicates that the preventing step is a possible function. Such an assertion is not the standard used for anticipation. Since this feature is not taught and the examiner admits that this feature is not taught by *Bryant*, claim 1 is not anticipated by the cited reference.

Further, as amended, claim 1 also includes sending a set of identifiers in which each identifier used to request the content and each identifier returned for the content is contained in this set. For example, this request includes a URL sent to the source and a URL returned from the source for the content in response to the sent URL.

Since the other claims are independent claims containing similar features or are dependent claims depending from these independent claims, the same distinctions between *Bryant* and the claimed invention in claim 1 are present for these claims. Additionally, other claims claim additional combinations of features not suggested by the reference. For example, claim 5 reads as follows:

5. The method of claim 1, wherein the step of selectively preventing receipt of content from the source comprises:
 - presenting an indication of monitoring of user requests to access the content is occurring by the source; and
 - responsive to receiving user input indicating that receipt of content from the source should be prevented, preventing receipt of content from the source.

This cited section teaches saving a session and replaying the session to perform a benchmark process. Nowhere does *Bryant* teach presenting an indication of monitoring by the source in this cited section. Nowhere is any indication of monitoring received or presented in this portion of *Bryant* cited by the examiner.

In another example, claims 4 and 24 recite that the validation service is located on a server. Nowhere does *Bryant* teach the use of a validation service in the section cited by the examiner, much less that the service is located on a server. Instead, this portion of *Bryant* teaches a monitor that is used to record URLs. Consequently, it is respectfully urged that the rejection of claims 1-38 have been overcome.

Therefore, the rejection of claims 1-38 under 35 U.S.C. § 102 has been overcome.

Furthermore, *Bryant* does not teach, suggest, or give any incentive to make the needed changes to reach the presently claimed invention. The examiner has only stated that the function of the present invention is a highly possible function because the setup in *Bryant* is believed by the examiner to be similar of that in the present invention. Such a statement also is not an appropriate standard for obviousness, in addition to an inappropriate rational for anticipation. Absent the examiner pointing out some teaching or incentive based on the prior art to implement the recording of sessions in *Bryant* to one of preventing receipt of content from a source, one of ordinary skill in the art would not be led to modify *Bryant* to reach the present invention when the reference is examined as a whole. Absent some teaching, suggestion, or incentive to modify *Bryant* in this manner, the presently claimed invention can be reached only through an improper use of hindsight using the applicants' disclosure as a template to make the necessary changes to reach the claimed invention.

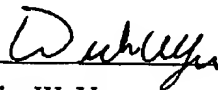
III. Conclusion

It is respectfully urged that the subject application is patentable over the above-cited reference and is now in condition for allowance.

The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: March 12, 2004

Respectfully submitted,



Duke W. Yee
Reg. No. 34,285
Carstens, Yee & Cahoon, LLP
P.O. Box 802334
Dallas, TX 75380
(972) 367-2001
Attorney for Applicant